

RULE CrRLJ 4.1
ARRAIGNMENT

(a) Procedures. After the complaint or the citation and notice has been filed, the defendant shall be arraigned thereon in open court.

(1) Time.

(i) The defendant shall be arraigned not later than 15 days after the date the complaint is filed in court, if the defendant is (A) detained in a county or city jail in the county where the charges are pending, or (B) subject to conditions of release imposed in connection with the same charges.

(ii) The defendant shall be arraigned not later than 15 days after that appearance which next follows the filing of the complaint or citation and notice, if the defendant is not detained in such jail or subject to such conditions of release. Any delay in bringing the defendant before the court shall not affect the allowable time for arraignment, regardless of the reason for the delay. For purposes of this rule, "appearance" has the meaning defined in CrRLJ 3.3(a)(3)(iii).

(2) Reading and Plea. Arraignment shall consist of reading the complaint or the citation and notice to the defendant or stating to him or her the substance of the charge and calling on the defendant to plead thereto. The defendant shall be given a copy of the complaint or the citation and notice before being called upon to plead, unless a copy has previously been supplied. The defendant shall not be required to plead to the complaint or the citation and notice until he or she shall have had a reasonable time to examine it and to consult with a lawyer, if requested.

(3) Advisement. At arraignment, unless the defendant appears with a lawyer, the court shall advise the defendant on the record:

(i) of the right to trial by jury if applicable; and

(ii) of the right to be represented by a lawyer at arraignment and to have an appointed lawyer for arraignment if the defendant cannot afford one.

(b) Objection to Arraignment Date---Loss of Right to Object. A party who objects to the date of arraignment on the ground that it is not within the time limits prescribed by this rule must state the objection to the court at the time of the arraignment. If the court rules that the objection is correct, it shall establish and announce the proper date of arraignment. That date shall constitute the arraignment date for purposes of CrRLJ 3.3. A party who fails to object as required shall lose the right to object, and the arraignment date shall be conclusively established as the date upon which the defendant was actually arraigned.

(c) Waiver.

(1) Jury Trial. A waiver of jury trial at arraignment must be in writing and signed by the defendant. If the defendant waives a jury trial at arraignment, he or she must be advised of the right to withdraw the waiver and request a jury trial within 10 days of arraignment.

(2) Lawyer. If the defendant chooses to proceed without a lawyer, the court shall determine on the record that the waiver is made voluntarily, competently and with knowledge of the consequences. The defendant must be advised that waiver of a lawyer at arraignment does not preclude the defendant from asserting the right to a lawyer later in the proceedings.

(d) Name. At arraignment, the court shall ask the defendant his or her true name. If the defendant's name has been incorrectly stated in the complaint or citation and notice, the court shall order the complaint or citation and notice to be corrected accordingly.

(e) Appearance by Defendant's Lawyer. Except as otherwise provided by statute or by local court rule, a lawyer may enter an appearance or a plea of not guilty on behalf of a client for any offense. Such appearance or plea may be entered only after a complaint or citation and notice has been filed.

(1) The appearance or the plea of not guilty shall be made only in writing or in open court, and eliminates the need for a further arraignment.

(2) An appearance that waives arraignment but fails to state a plea shall be deemed to constitute entry of a plea of not guilty.

(3) An appearance under this rule constitutes a waiver of any defect in the complaint or the citation and notice except for failure to charge a crime which may be raised at any time and except for any other defect that is specifically stated in writing or on the record at the time the appearance is entered.

(4) A written appearance shall commence the running of the time periods established in rule 3.3 from the date of its receipt by the court, unless the time periods have previously been commenced by an appearance in open court.

(5) Telephonic requests or notices by either the defendant or the defendant's lawyer shall not constitute an arraignment or an appearance or entry of a plea, and shall not commence the running of the time periods under rule 3.3.

(6) The appearance by a lawyer authorized by this rule shall be construed as an "arraignment" under the other provisions of these rules.

[Amended effective September 1, 1995; September 1, 2003.]
